

Department of Energy

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(a) Is limited to activities involving only unclassified information and does not permit furnishing Restricted Data or other classified information.

(b) Does not relieve a person from complying with relevant laws or the regulations of other Government agencies applicable to exports;

(c) Does not authorize a person to engage in any activity when the person knows or has reason to know that the activity is intended to provide assistance in designing, developing, fabricating or testing a nuclear explosive device.

§ 810.10 Grant of specific authorization.

(a) Any person proposing to provide assistance for which § 810.8 indicates specific authorization is required may apply for the authorization to the U.S. Department of Energy, National Nuclear Security Administration, Washington, DC 20585, Attention: Director, Nuclear Transfer and Supplier Policy Division, NN-43, Office of Arms Control and Nonproliferation.

(b) The Secretary of Energy will approve an application for specific authorization if he determines, with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense, that the activity will not be inimical to the interest of the United States. In making this determination, the Secretary will take into account:

(1) Whether the United States has an agreement for nuclear cooperation with the nation or group of nations involved;

(2) Whether the country involved is a party to the NPT, or a country for which the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) is in force;

(3) Whether the country involved has entered into an agreement with the IAEA for the application of safeguards on all its peaceful nuclear activities;

(4) Whether the country involved, if it has not entered into such an agreement, has agreed to accept IAEA safeguards when applicable to the proposed activity;

(5) Other nonproliferation controls or conditions applicable to the proposed activity;

(6) The relative significance of the proposed activity;

(7) The availability of comparable assistance from other sources;

(8) Any other factors that may bear upon the political, economic, or security interests of the United States, including U.S. obligations under international agreements or treaties.

(c) If the proposed assistance involves the export of "sensitive nuclear technology" as defined in § 810.3, the requirements of sections 127 and 128 of the Atomic Energy Act and of any applicable U.S. international commitments must also be met.

(d) Approximately 30 days after the Secretary's grant of a specific authorization, a copy of the Secretary's determination may be provided to any person requesting it at the Department's Public Reading Room, unless the applicant submits information showing that public disclosure will cause substantial harm to its competitive position. This provision does not affect any other authority provided by law for the Department not to disclose information.

[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 26, 1993; 65 FR 16128, Mar. 27, 2000]

§ 810.11 Revocation, suspension, or modification of authorization.

The Secretary may revoke, suspend, or modify a general or specific authorization:

(a) For any material false statement in an application for specific authorization or in any additional information submitted in its support;

(b) For failing to provide a report or for any material false statement in a report submitted pursuant to § 810.13;

(c) If any authorized assistance is subsequently determined to be inimical to the interest of the United States or otherwise no longer meets the legal criteria for approval; or

(d) Pursuant to section 129 of the Atomic Energy Act.

§ 810.12 Information required in an application for specific authorization.

Each application shall contain:

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(a) The name, address, and citizenship of the applicant, and complete disclosure of all real parties in interest; if the applicant is a corporation or other legal entity, where it is incorporated or organized, the location of its principal office, and the degree of any control or ownership by any foreign person or entity;

(b) A complete description of the proposed activity, including its approximate monetary value, the name and location of any facility or project involved, the name and address of the person or legal entity for which the activity is to be performed, and a detailed description of any specific project to which the activity relates;

(c) Any information the applicant may wish to provide concerning the factors listed in § 810.10(b); and

(d) Designation of any information considered proprietary whose public disclosure would cause substantial harm to the competitive position of the applicant.

§ 810.13 Reports.

(a) Any person who has received a specific authorization shall within 30 days after beginning the authorized activity provide to the Department of Energy a report containing the following information:

(1) The name, address, and citizenship of the person submitting the report;

(2) The name, address, and citizenship of the person or entity for which the activity is being performed;

(3) A description of the activity, the date it began, its location, status, and anticipated date of completion; and

(4) A copy of the Department of Energy's letter authorizing the activity.

(b) Any person carrying out a specifically authorized activity shall inform DOE when the activity is completed or if it is terminated before completion.

(c) Any person granted a specific authorization shall inform DOE when it is known that the proposed activity will not be undertaken and the granted authorization will not be used.

(d) Any person, within 30 days after beginning any generally authorized activity under § 810.7(b), (c), or (h), shall provide to the Department of Energy:

(1) The name, address, and citizenship of the person submitting the report;

(2) The name, address, and citizenship of the person or entity for which the activity is being performed; and

(3) A description of the activity, the date it began, its location, status, and anticipated date of completion.

(4) An assurance that the U.S. vendor has an agreement with the recipient ensuring that any subsequent transfer of materials, equipment, or technology transferred under general authorization to a country listed in § 810.8(a) will only take place if the vendor obtains DOE approval.

(e) Persons engaging in generally authorized activities as employees of persons required to report are not themselves required to report.

(f) Persons engaging in activities generally authorized under § 810.7(a), (d), (e), (f), and (g) are not subject to reporting requirements under this section.

(g) All reports should be sent to: U.S. Department of Energy, National Nuclear Security Administration, Washington, DC 20585, Attention: Director, Nuclear Transfer and Supplier Policy Division, NN-43, Office of Arms Control and Nonproliferation.

[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 16, 1993; 65 FR 16128, Mar. 27, 2000]

§ 810.14 Additional information.

The Department of Energy may at any time require a person engaging in any generally or specifically authorized activity to submit additional information.

§ 810.15 Violations.

(a) The Atomic Energy Act provides that:

(1) Permanent or temporary injunctions or restraining orders may be granted to prevent any person from violating any provision of the Atomic Energy Act or its implementing regulations.

(2) Any person convicted of violating or conspiring or attempting to violate any provision of section 57 of the Atomic Energy Act may be fined up to \$10,000 or imprisoned up to 10 years, or both. If the offense is committed with